

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the above amendments and the following remarks, is respectfully requested.

Claims 1-8 remain pending in this application. By this amendment, Claims 1, 7 and 8 have been amended. The amendments to Claims 1 and 7 are directed to formalities and the amendment to Claim 8 is responsive to the rejection under 35 U.S.C. § 101. Accordingly, it is respectfully submitted that no new matter has been added.

In the outstanding Office Action, Claim 8 was rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter; Claims 1-5, 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine (U.S. Patent No. 5,692,214) in view of Ehrhart et al. (U.S. Patent No. 6,304,660 B1, hereinafter “Ehrhart”); and Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine and Ehrhart as applied to Claim 1 above, and further in view of Saward (U.S. Patent No. 5,537,473).

Responsive to the rejection of Claim 8 under 35 U.S.C. § 101 as directed to non-statutory subject matter, the word “carrier” has been changed to “storage medium”. It is respectfully submitted that Claim 8 is in compliance with M.P.E.P. § 2106. Accordingly, it is respectfully requested that this rejection be reconsidered and withdrawn.

Claim 1 recites:

determination means for determining whether code information corresponding to said identification information is recorded in a memory of said information processing apparatus; and

accession means for accessing, if said determination means determines that said code information is not recorded in said memory, a server apparatus to download said code information.

Claims 7 and 8 recite similar subject matter in method format. It is respectfully submitted that these features are neither disclosed by nor rendered obvious by Levine, Ehrhart, Saward or any conceivable combination thereof.

The Office Action correctly recognizes that Levine does not disclose the above recited features of Claims 1, 7 and 8.¹

The Office Action then asserts:

In an analogous art, Ehrhart teaches an apparatus with said code information acquiring means comprising: determination means for determining whether code information corresponding to said identification information is recorded in a memory of said information processing apparatus; and accession means for accessing, if said determination means determines that said code information is not recorded in said memory, a server apparatus to download said code information (column 27, lines 19-27).

Applicants respectfully disagree.

Ehrhart relates in general to apparatuses for use in processing security documents and particularly to apparatuses for processing lottery game tickets.² In Ehrhart a “controller 532 determines if a lookup table entry corresponding to the identification code of the present ticket³ is resident in reader memory space 548.”⁴ Ehrhart further states that “[i]f an entry is not present in memory 548 then controller 532 proceeds to block 622 to download and then determine at block 623 if an entry corresponding to the identification code of the present ticket is located in a master lookup table stored in memory space of local host processor system 558.”⁵ Ehrhart goes on to explain “[i]f a lookup table entry corresponding to the present identification code is not located either in the original lookup table or the download Master lookup table, then controller 532 at block 624 causes to be displayed an “Unrecognized Game” message.”⁶

Thus, Ehrhart does not describe identification information for identifying a recording apparatus by which a program is recorded. Further, Ehrhart does not include determining

¹ See for example the paragraph bridging pages 3 and 4.

² Column 1, lines 11-13.

³ i.e., lottery ticket.

⁴ Column 27, lines 19-22.

⁵ Column 27, lines 22-27.

⁶ Column 27, lines 28-32.

whether code information corresponding to said identification information is recorded in a memory of said information processing apparatus. Finally, Ehrhart does not describe or render obvious accession means for accessing, if said determination means determines that said code information is not recorded in said memory, a server apparatus to download said code information. That is, Ehrhart fails to describe the features of Claims 1, 7 and 8 including those described above. That is for the reason Ehrhart is directed to processing security documents and in particular lottery ticket rather than programming information or preset recording of a program. The portions of Ehrhart described above and referred to in the Office Action are concerned with identifying an identification code of a lottery ticket to determine whether the identification code is resident in a memory space.

Further, it is respectfully submitted that Levine would not have looked to Ehrhart for memory information processing of lottery ticket identification codes “to assist in the selection of television programs to be recorded at future times and to control a video tape recorder to implement the selected recordings because Ehrhart is directed to different subject matter from Levine.”⁷

Accordingly, it is respectfully submitted that Ehrhart fails to provide any teaching, suggestion, motivation or other logical reason for modifying the television program recordation as described in Levine with the use of identification code memory for lottery tickets.

It is respectfully submitted that Saward fails to correct the deficiencies of Levine and Ehrhart pointed out above because Saward fails to describe the features of Claims 1, 7 and 8 described above.

It is respectfully submitted that dependent Claims 2-6 are patentable at least for the reasons argued above with regard to Claim 1 from which they depend.

⁷ Levine abstract.

Accordingly, it is respectfully requested that the rejections of Claims 1-8 be reconsidered and withdrawn, and that Claims 1-8 be found allowable.

Consequently, for the reasons discussed in detail above, no further issues are believed to be outstanding in the present application and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below-listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/07)

Michael L. Gellner
Registration No. 27,256